

109TH CONGRESS  
1ST SESSION

# S. 1334

To provide for integrity and accountability in professional sports.

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IN THE SENATE OF THE UNITED STATES

JUNE 29, 2005

Mr. BUNNING (for himself, Mr. STEVENS, and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To provide for integrity and accountability in professional sports.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Professional Sports  
5 Integrity and Accountability Act”.

6       **SEC. 2. EFFECTIVE DATE.**

7       This Act shall take effect 1 year after the date of  
8 enactment of this Act.

9       **SEC. 3. DEFINITIONS.**

10       In this Act:

1           (1) COMMISSION.—The term “Commission”  
2 means the Federal Trade Commission.

3           (2) OFF-SEASON.—The term “off-season” for  
4 each professional athlete means the period of time  
5 outside the professional sports season.

6           (3) PROFESSIONAL ATHLETE.—The term “pro-  
7 fessional athlete” means an individual who competes  
8 in a professional sports league.

9           (4) PROFESSIONAL SPORTS EVENT.—The term  
10 “professional sports event” means any game, match,  
11 or competition conducted in the United States be-  
12 tween any teams, clubs, or organizations of a profes-  
13 sional sports league.

14           (5) PROFESSIONAL SPORTS LEAGUE.—The  
15 term “professional sports league” means Major  
16 League Baseball, Minor League Baseball, the Na-  
17 tional Football League, the Arena Football League,  
18 the National Basketball Association, the Women’s  
19 National Basketball Association, the National Hock-  
20 ey League, Major League Soccer, and any successor  
21 organization to those organizations.

22           (6) PROFESSIONAL SPORTS SEASON.—The term  
23 “professional sports season” for each professional  
24 athlete means the period of time beginning on the  
25 date on which the athlete is eligible, invited, allowed,

1 or required to report for practice or preparation to  
 2 compete in a professional sports league and ending  
 3 on the later of the date of the league’s last regularly  
 4 scheduled professional sports event or the date of  
 5 the last professional sports event of the post-season  
 6 in which the athlete is eligible, invited, allowed, or  
 7 required to participate.

8 (7) **PROTOCOL.**—The term “Protocol” means  
 9 the United States Anti-Doping Agency Protocol for  
 10 Olympic Movement Testing and any successor to  
 11 that protocol.

12 **SEC. 4. CONDUCT PROHIBITED.**

13 It is unlawful for a professional sports league to orga-  
 14 nize, sponsor, endorse, promote, produce, or recognize a  
 15 professional sports event without adopting and enforcing  
 16 a testing policy that meets the requirements of section 5.

17 **SEC. 5. MINIMUM DRUG POLICY IN PROFESSIONAL SPORTS.**

18 (a) **TESTING POLICY REQUIRED.**—Each professional  
 19 sports league shall adopt and enforce policies and proce-  
 20 dures to—

21 (1) proscribe the use of prohibited substances  
 22 and methods by each professional athlete competing  
 23 in the league;

1           (2) test for the use of prohibited substances  
2           and methods by each professional athlete competing  
3           in the league; and

4           (3) proscribe any person associated with the  
5           league from complicity in a violation by a profes-  
6           sional athlete competing in the league.

7           (b) PROHIBITED SUBSTANCES AND METHODS.—At a  
8           minimum, the prohibited substances and methods are as  
9           follows:

10           (1) PROFESSIONAL SPORTS SEASON.—During  
11           the professional sports season, all substances and  
12           methods in such amounts as prohibited in-competi-  
13           tion by the Protocol, excluding substances or meth-  
14           ods prohibited in a particular sport as defined by the  
15           Protocol.

16           (2) OFF-SEASON.—During the off-season, all  
17           substances and methods in such amounts as prohib-  
18           ited out-of-competition by the Protocol, excluding  
19           substances or methods prohibited in a particular  
20           sport as defined by the Protocol.

21           (3) ADDITIONAL SUBSTANCES AND METH-  
22           ODS.—Any other substances or methods or amounts  
23           of substances or methods determined by the Com-  
24           mission to be performance-enhancing substances or

1 methods for which testing is reasonable and prac-  
2 ticable.

3 (c) VIOLATIONS.—

4 (1) PROFESSIONAL ATHLETE.—The following  
5 constitute violations of the testing policy under this  
6 section for a professional athlete:

7 (A) The presence of a prohibited substance  
8 or its metabolites or markers in the bodily spec-  
9 imen of a professional athlete, or evidence of  
10 the use of a prohibited method.

11 (B) Refusing, or failing without compelling  
12 justification, to submit to a test. The absence of  
13 an athlete from the United States shall not  
14 alone be a compelling justification under this  
15 subparagraph.

16 (2) ANY PERSON.—The following constitute vio-  
17 lations of the testing policy under this section for  
18 any person associated with a professional sports  
19 league:

20 (A) The administration or attempted ad-  
21 ministration of a prohibited substance or meth-  
22 od to any professional athlete.

23 (B) Assisting, encouraging, aiding, abet-  
24 ting, covering up, or any other type of com-

1           plicity involving a violation by a professional  
2           athlete.

3       (d) CONDUCT OF TESTS.—

4           (1) FREQUENCY, RANDOMNESS, AND ADVANCE  
5       NOTICE.—

6           (A) IN GENERAL.—Each professional ath-  
7       lete shall be tested for the use of prohibited  
8       substances and methods no less than 3 times in  
9       each calendar year that the athlete competes in  
10      a professional sports league.

11          (B) RANDOM.—Tests conducted under this  
12      subsection shall be conducted at random inter-  
13      vals throughout the entire calendar year with  
14      no advance notice to the professional athlete.

15      (2) ADMINISTRATION AND ANALYSIS.—

16          (A) IN GENERAL.—Tests under this sub-  
17      section shall be conducted by an independent  
18      entity not subject to the control of any profes-  
19      sional sports league.

20          (B) METHODS, POLICIES, AND PROCE-  
21      DURES.—The independent entity shall deter-  
22      mine the methods, policies, and procedures of  
23      collection, transportation, and analysis of bodily  
24      specimens of professional athletes necessary to  
25      conduct tests for prohibited substances and

1 methods and shall conduct such collection,  
2 transportation, and analysis.

3 (C) ANALYSIS.—Analysis of specimens  
4 shall be conducted in a laboratory that meets  
5 the requirements for approval by the United  
6 States Anti-Doping Agency and is located with-  
7 in the United States.

8 (3) SUBSTANCES.—

9 (A) IN GENERAL.—Each professional ath-  
10 lete shall be tested for all prohibited substances  
11 and methods at the time of the administration  
12 of each test.

13 (B) LIMITED EXEMPTION FOR MEDICAL OR  
14 THERAPEUTIC USE.—A professional sports  
15 league may provide an individual professional  
16 athlete with an exemption for a particular pro-  
17 hibited substance or method if such substance  
18 or method—

19 (i) has a legitimate and documented  
20 medical or therapeutic use;

21 (ii) is for a documented medical condi-  
22 tion of such athlete; and

23 (iii) is properly prescribed by a doctor  
24 of medicine licensed in the United States.

25 (e) PENALTIES.—

1 (1) VIOLATION.—Subject to paragraph (3), a  
2 violation shall result in the following penalties:

3 (A) FIRST VIOLATION.—A person who  
4 commits a violation shall be immediately sus-  
5 pended from participation in any professional  
6 sports league without pay for a minimum of 2  
7 years.

8 (B) SECOND VIOLATION.—A person who  
9 commits a violation, having once previously  
10 committed a violation, shall be immediately per-  
11 manently suspended without pay from partici-  
12 pation in any professional sports league.

13 (2) DISCLOSURE.—

14 (A) AFTER NOTICE.—Not later than 10  
15 days after receiving notice of a violation under  
16 this section, a professional sports league shall  
17 publicly disclose the name of the violator, the  
18 penalty imposed, and a description of the viola-  
19 tion, including any prohibited substance or  
20 method involved.

21 (B) ADJUDICATION PROCEEDINGS.—The  
22 league shall publicly disclose the results of any  
23 adjudication proceedings required by paragraph  
24 (3) within 10 days of notice of the termination  
25 of the proceedings.



1 (3) ADJUDICATION.—

2 (A) IN GENERAL.—A professional sports  
3 league shall—

4 (i) provide a violator with prompt no-  
5 tice and a prompt hearing and right to ap-  
6 peal; and

7 (ii) permit that violator to have coun-  
8 sel or other representative for the pro-  
9 ceedings.

10 (B) VIOLATOR SUSPENDED.—A violator  
11 subject to this paragraph shall be suspended  
12 without pay from participation in any profes-  
13 sional sports league during the proceedings.

14 (f) RECORDS.—

15 (1) IN GENERAL.—Each professional sports  
16 league shall maintain all documentation and records  
17 pertaining to the policies and procedures required by  
18 this section and make such documentation and  
19 records available to the Commission upon request.

20 (2) PRIVACY.—With regards to any information  
21 provided to the Commission under this subsection,  
22 nothing in this Act shall be construed to require dis-  
23 closure to the public of health information of an in-  
24 dividual athlete that would not be subject to disclo-  
25 sure under other applicable Federal laws.

1 **SEC. 6. ENFORCEMENT.**

2 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—

3 Except as provided in subsection (b), this Act shall be en-  
4 forced by the Commission as if a violation of this Act or  
5 of any regulation promulgated by the Commission under  
6 this Act were a violation of section 18 of the Federal  
7 Trade Commission Act regarding unfair or deceptive acts  
8 or practices.

9 (b) ENHANCED CIVIL PENALTIES.—In addition to  
10 the penalties provided in subsection (a), the Commission  
11 may seek a civil penalty not to exceed \$1,000,000 for each  
12 day a professional sports league is in violation of this Act.

13 (c) PROMULGATION OF REGULATIONS.—The Com-  
14 mission may promulgate such regulations as necessary to  
15 enforce this Act as if the relevant provisions of the Federal  
16 Trade Commission Act were incorporated in this Act.

17 (d) DELEGATION.—The Commission may delegate  
18 the administration of this Act or any part of this Act to  
19 any appropriate agency of the United States Government.

20 **SEC. 7. RULES OF CONSTRUCTION.**

21 (a) UNITED STATES ANTI-DOPING AGENCY.—Noth-  
22 ing in this Act shall be construed to deem the United  
23 States Anti-Doping Agency an agent of or an actor on  
24 behalf of the United States Government or impose any re-  
25 quirements or place any limitations on the United States  
26 Anti-Doping Agency.

1 (b) MORE STRINGENT POLICIES.—Nothing in this  
2 Act shall be construed to prohibit a professional sports  
3 league from adopting and enforcing policies and proce-  
4 dures more stringent than the requirements of this Act.

5 **SEC. 8. SENSE OF CONGRESS ON COORDINATION WITH THE**  
6 **UNITED STATES ANTI-DOPING AGENCY.**

7 It is the sense of Congress that—

8 (1) the United States Anti-Doping Agency is  
9 the Nation’s leading expert on testing for and re-  
10 search on performance-enhancing substances and  
11 methods; and

12 (2) professional sports leagues should consult  
13 with and follow the recommendations and standards  
14 of the Agency in developing their testing policies and  
15 procedures.

16 **SEC. 9. SENSE OF CONGRESS ON PROFESSIONAL SPORTS**  
17 **RECORDS.**

18 It is the sense of Congress that the individual records  
19 of athletes achieved while using performance-enhancing  
20 drugs should be invalidated.

1 **SEC. 10. SENSE OF CONGRESS ON OTHER PROFESSIONAL**  
2 **SPORTS ORGANIZATIONS.**

3       It is the sense of Congress that all professional sports  
4 organizations not covered by this Act should adopt testing  
5 policies that meet the requirements of the Act.

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